



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 261

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The following bill was reported to the Senate from the House and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to water utilities and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 278.020 is amended to read as follows:

4 (1) No person, partnership, public or private corporation, or combination thereof shall
5 commence providing utility service to or for the public or begin the construction of
6 any plant, equipment, property, or facility for furnishing to the public any of the
7 services enumerated in KRS 278.010, except retail electric suppliers for service
8 connections to electric-consuming facilities located within its certified territory and
9 ordinary extensions of existing systems in the usual course of business, until that
10 person has obtained from the Public Service Commission a certificate that public
11 convenience and necessity require the service or construction. Upon the filing of an
12 application for a certificate, and after any public hearing which the commission may
13 in its discretion conduct for all interested parties, the commission may issue or
14 refuse to issue the certificate, or issue it in part and refuse it in part, except that the
15 commission shall not refuse or modify an application submitted under KRS 278.023
16 without consent by the parties to the agreement. The commission, when considering
17 an application for a certificate to construct a base load electric generating facility,
18 may consider the policy of the General Assembly to foster and encourage use of
19 Kentucky coal by electric utilities serving the Commonwealth. The commission,
20 when considering an application for a certificate to construct an electric
21 transmission line, may consider the interstate benefits expected to be achieved by
22 the proposed construction or modification of electric transmission facilities in the
23 Commonwealth. Unless exercised within one (1) year from the grant thereof,
24 exclusive of any delay due to the order of any court or failure to obtain any
25 necessary grant or consent, the authority conferred by the issuance of the certificate
26 of convenience and necessity shall be void, but the beginning of any new
27 construction or facility in good faith within the time prescribed by the commission

1 and the prosecution thereof with reasonable diligence shall constitute an exercise of
2 authority under the certificate.

- 3 (2) For the purposes of this section, construction of any electric transmission line of one
4 hundred thirty-eight (138) kilovolts or more and of more than five thousand two
5 hundred eighty (5,280) feet in length shall not be considered an ordinary extension
6 of an existing system in the usual course of business and shall require a certificate
7 of public convenience and necessity. However, ordinary extensions of existing
8 systems in the usual course of business not requiring such a certificate shall include:
- 9 (a) The replacement or upgrading of any existing electric transmission line; or
 - 10 (b) The relocation of any existing electric transmission line to accommodate
11 construction or expansion of a roadway or other transportation infrastructure;
12 or
 - 13 (c) An electric transmission line that is constructed solely to serve a single
14 customer and that will pass over no property other than that owned by the
15 customer to be served.

16 (3) Prior to granting a certificate of public convenience and necessity to construct
17 facilities to provide the services set forth in KRS 278.010(3)(f), the commission
18 shall require the applicant to provide a surety bond, or a reasonable guaranty
19 that the applicant shall operate the facilities in a reasonable and reliable manner
20 for a period of at least five (5) years. The surety bond or guaranty shall be in an
21 amount sufficient to ensure the full and faithful performance by the applicant or
22 its successors of the obligations and requirements of KRS Chapter 278 and of all
23 applicable federal and state environmental requirements. However, no surety
24 bond or guaranty shall be required for an applicant that is a water district or
25 water association or for an applicant that the commission finds has sufficient
26 assets to ensure the continuity of sewage service.

27 (4) No utility shall exercise any right or privilege under any franchise or permit, after

the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

~~(5)~~~~(4)~~ No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

~~(6)~~~~(5)~~ No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

~~(7)~~~~(6)~~ No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing

1 that ownership does not in fact confer control. Application for any approval or
 2 authorization shall be made to the commission in writing, verified by oath or
 3 affirmation, and be in a form and contain the information as the commission
 4 requires. The commission shall approve any proposed acquisition when it finds that
 5 the same is to be made in accordance with law, for a proper purpose and is
 6 consistent with the public interest. The commission may make investigation and
 7 hold hearings in the matter as it deems necessary, and thereafter may grant any
 8 application under this subsection in whole or in part and with modification and
 9 upon terms and conditions as it deems necessary or appropriate. The commission
 10 shall grant, modify, refuse, or prescribe appropriate terms and conditions with
 11 respect to every such application within sixty (60) days after the filing of the
 12 application therefor, unless it is necessary, for good cause shown, to continue the
 13 application for up to sixty (60) additional days. The order continuing the application
 14 shall state fully the facts that make continuance necessary. In the absence of that
 15 action within that period of time, any proposed acquisition shall be deemed to be
 16 approved.

17 ~~(8)(7)~~ Subsection ~~(7)(6)~~ of this section shall not apply to any acquisition of control
 18 of any:

- 19 (a) Utility which derives a greater percentage of its gross revenue from business
 20 in another jurisdiction than from business in this state if the commission
 21 determines that the other jurisdiction has statutes or rules which are applicable
 22 and are being applied and which afford protection to ratepayers in this state
 23 substantially equal to that afforded such ratepayers by subsection ~~(7)(6)~~ of
 24 this section;
- 25 (b) Utility by an acquirer who directly, or indirectly through one (1) or more
 26 intermediaries, controls, or is controlled by, or is under common control with,
 27 the utility, including any entity created at the direction of such utility for

1 purposes of corporate reorganization; or

2 (c) Utility pursuant to the terms of any indebtedness of the utility, provided the
3 issuance of indebtedness was approved by the commission.

4 ~~(9)~~~~((8))~~ In a proceeding on an application filed pursuant to this section, any interested
5 person, including a person over whose property the proposed transmission line will
6 cross, may request intervention, and the commission shall, if requested, conduct a
7 public hearing in the county in which the transmission line is proposed to be
8 constructed, or, if the transmission line is proposed to be constructed in more than
9 one county, in one of those counties. The commission shall issue its decision no
10 later than ninety (90) days after the application is filed, unless the commission
11 extends this period, for good cause, to one hundred twenty (120) days. The
12 commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its
13 discretion, it deems it necessary to hire a competent, qualified and independent firm
14 to assist it in reaching its decision. The issuance by the commission of a certificate
15 that public convenience and necessity require the construction of an electric
16 transmission line shall be deemed to be a determination by the commission that, as
17 of the date of issuance, the construction of the line is a prudent investment.

18 **(10) The commission shall not approve any application under subsection (6) or (7) of**
19 **this section for the transfer of control of a utility described in KRS 278.010(3)(f)**
20 **unless the commission finds, in addition to findings required by those**
21 **subsections, that the person acquiring the utility has provided evidence of**
22 **financial integrity to ensure the continuity of sewage service in the event that the**
23 **acquirer cannot continue to provide service.**

24 **(11) The commission shall not accept for filing an application requesting authority to**
25 **abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to**
26 **cease providing services unless the applicant has provided written notice of the**
27 **filing to the following:**

1 (a) Kentucky Division of Water;

2 (b) Office of the Attorney General; and

3 (c) The county judge/executive, mayor, health department, planning and
 4 zoning commission, and public sewage service provider of each county and
 5 each city in which the utility provides utility service.

6 (12) The commission may grant any application requesting authority to abandon
 7 facilities that provide services as set forth in KRS 278.010(3)(f) or to cease
 8 providing services upon terms and conditions as the commission deems necessary
 9 or appropriate, but not before holding a hearing on the application and no earlier
 10 than ninety (90) days from the date of the commission's acceptance of the
 11 application for filing, unless the commission finds it necessary for good cause to
 12 act upon the application earlier.

13 ~~(13)~~~~(9)~~ If any provision of this section or the application thereof to any person or
 14 circumstance is held invalid, the invalidity shall not affect other provisions or
 15 applications of this section which can be given effect without the invalid provision
 16 or application, and to that end the provisions are declared to be severable.

17 ➔Section 2. KRS 278.021 is amended to read as follows:

18 (1) If the commission, after notice and hearing, enters an order in which it finds that a
 19 utility is abandoned, the commission may bring an action in the Franklin Circuit
 20 Court for an order attaching the assets of the utility and placing those assets under
 21 the sole control and responsibility of a receiver.

22 (2) For purposes of this section, a utility shall be considered abandoned if it:

23 (a) Disclaims, renounces, relinquishes, or surrenders all property interests or all
 24 rights to utility property, real or personal, necessary to provide service;

25 (b) Notifies the commission of its intent to abandon the operation of the facilities
 26 used to provide service;

27 (c) Fails to comply with an order of the commission in which the commission

- 1 determined that the utility is not rendering adequate service, specified the
2 actions necessary for the utility to render adequate service, and fixed a
3 reasonable time for the utility to perform such actions, and the failure of the
4 utility to comply with the order presents a serious and imminent threat to the
5 health or safety of a significant portion of its customers; or
- 6 (d) Fails to meet its financial obligations to its suppliers and is unable or
7 unwilling to take necessary actions to correct the failure after receiving
8 reasonable notice from the commission, and the failure poses an imminent
9 threat to the continued availability of gas, water, electric, or sewer utility
10 service to its customers.
- 11 (3) Within twenty (20) days after commencing an action in Franklin Circuit Court, the
12 commission shall file a certified copy of the record of the administrative proceeding
13 in which the commission entered its finding of abandonment.
- 14 (4) Any action brought pursuant to KRS 278.410 for review of an order of the
15 commission containing a finding that a utility is abandoned shall be consolidated
16 with any action brought pursuant to subsection (1) of this section and based upon
17 the same order.
- 18 (5) Any receiver appointed by the court shall file a bond in an amount fixed by the
19 court. The receiver shall operate the utility to preserve its assets, to restore or
20 maintain a reasonable level of service, and to serve the best interests of its
21 customers.
- 22 (6) During the pendency of any receivership, the receiver may bring or defend any
23 cause of action on behalf of the utility and generally perform acts on behalf of the
24 utility as the court may authorize.
- 25 (7) The receiver shall control and manage the assets and operations of the utility until
26 the Franklin Circuit Court, after reasonable notice and hearing, orders the receiver
27 to return control of those assets to the utility or to liquidate those assets as provided

1 by law.

2 (8) (a) Notwithstanding subsection (1) of this section, the commission may petition
3 the Franklin Circuit Court to appoint temporarily a receiver to operate and
4 manage the assets of an abandoned utility. After notice to the utility and a
5 hearing, the court may grant a petition, upon terms and conditions as it deems
6 appropriate, upon a showing by a preponderance of the evidence:

- 7 1. That a utility has been abandoned;
- 8 2. That the abandonment is an immediate threat to the public health, safety,
9 or the continued availability of service to the utility's customers; and
- 10 3. That the delay required for the commission to conduct a hearing would
11 place the public health, safety, or continued utility service at unnecessary
12 risk.

13 (b) Sixty (60) days after its entry, the order of temporary receivership shall
14 terminate and control and responsibility for the assets and operations of the
15 utility shall revert to the utility without further action of the court unless the
16 commission brings an action under subsection (1) of this section.

17 **(9) Nothing contained in this section shall be construed as requiring the commission**
18 **to approve an application made pursuant to subsection (6) of Section 1 of this Act**
19 **for authority to abandon a utility or other assets of a utility or to cease the**
20 **provision of utility service.**

21 ➔Section 3. KRS 278.516 is amended to read as follows:

22 (1) The legislature finds and determines that:

23 (a) Small telephone utilities lack the resources to fully participate in the existing
24 regulatory processes, particularly under traditional rate of return and
25 certificate of public convenience and necessity regulation;

26 (b) Regulation, if not tailored specifically to the needs of small telephone utilities,
27 can retard the growth and development of small telephone utilities by

1 requiring the expenditure of excessive time and money responding to and
2 addressing regulatory processes instead of devoting those resources to
3 customer service and more productive business concerns and issues; and

4 (c) It is in the public interest to provide regulatory flexibility to small telephone
5 utilities to better enable them to adjust to the competition and innovation that
6 has come and is coming to the telecommunications industry as found and
7 determined by the legislature at KRS 278.512(1).

8 (2) In addition to the definitions set forth at KRS 278.010, the following definitions
9 shall apply to this section:

10 (a) "Telephone utility" means a telephone utility as defined at KRS 278.010(3)(e)
11 except that it includes local exchange carriers only;

12 (b) "Local exchange carrier" means a traditional wireline telephone utility which
13 provides its subscribers with access to the national public switched telephone
14 network;

15 (c) "Traditional wireline telephone utility" means one whose delivery of its
16 telephone utility services is characterized by the predominant use of wire or
17 wireline connections carrying communications transmissions between the
18 subscriber of the utility and the national public switched telephone network;

19 (d) "Small telephone utility" means a local exchange carrier providing telephone
20 utility service and having not more than fifty thousand (50,000) access lines in
21 Kentucky;

22 (e) "Largest telephone utility" means the local exchange carrier providing
23 telephone utility service in Kentucky and having the greatest number of access
24 lines in Kentucky;

25 (f) "Access lines" mean the telephone lines provided by a local exchange carrier.
26 In calculating the number of access lines provided by a local exchange carrier,
27 the number of access lines provided by all telephone utilities under common

ownership or control, as defined in KRS 278.020~~(7)~~~~[(6)]~~, with that telephone utility shall be counted;

(g) "GDP" means the real Gross Domestic Product Price Index, as it may be amended from time to time, as it is published by the Bureau of Economic Analysis of the United States Department of Commerce;

(h) "Annual percent change in the GDP" means, for any given calendar year, the annual percentage change in the GDP as it is calculated by the Bureau of Economic Analysis of the United States Department of Commerce;

(i) "Basic business rate" and "basic residential rate" mean the total rates or charges which must be paid by a business or residential subscriber, respectively, to a local exchange carrier in order to receive, outside of a standard metropolitan statistical area, telephone utility service within a specified geographic area for local calling and for which tariffed rates or charges are assessed, regardless of the amount of use of local calling;

(j) "Standard metropolitan statistical area" means any area in Kentucky designated as such, or as a part thereof, pursuant to 44 U.S.C. sec. 3504(d)(3) and 31 U.S.C. sec. 1104(d), as they may be amended, by the Office of Management and Budget of the Executive Office of the President of the United States; provided, however, that for purposes of this section, "standard metropolitan statistical area" shall include only the two (2) largest, as measured by population, standard metropolitan statistical areas, regardless of whether that area is located wholly or partially in Kentucky;

(k) "Basic business service" or "basic residential service" means the service for which basic business rates or basic residential rates are charged;

(l) "Average basic business or residential rate, including zone charges," means the total revenues which should be produced by the imposition of those rates or charges divided by the number of access lines to which those rates or

1 charges are applicable;

2 (m) "Zone charges" mean mileage or zone charges and are the charges assessed by
3 a telephone utility on the basis of a subscriber's distance from a central office
4 in order that the subscriber may receive basic business or residential services;

5 (n) "Subscriber" means the person or entity legally and financially responsible for
6 the bill rendered by a telephone utility for its services;

7 (o) "Intrastate access charges" mean the charges assessed for use of the
8 telecommunications facilities of one telephone utility by another person or
9 entity in order to deliver to the public for compensation telephone messages
10 originating and terminating within Kentucky;

11 (p) "Interstate access charges" mean the charges assessed for use of the
12 telecommunications facilities of one (1) telephone utility by another person or
13 entity in order to deliver to the public for compensation telephone messages
14 originating or terminating, but not both, in Kentucky; and

15 (q) "Pic charges" are charges assessed by a local exchange carrier in order to
16 implement a change in a subscriber's long distance carrier.

17 (3) (a) If a small telephone utility elects to be regulated as provided in subsection (7)
18 of this section, a small telephone utility once during any twenty-four (24)
19 month period may adjust or implement each of the following rates or charges:
20 basic business rate; basic residential rate; zone charges; or installation charges
21 for basic business or basic residential services by an amount not to exceed the
22 sum of the annual percentage changes in the GDP for the immediately
23 preceding two (2) calendar years multiplied by the existing rate or charge to be
24 adjusted. However, in no event shall a small telephone utility so adjust:

25 1. Its basic business rate, including zone charges, if the resulting average
26 basic business rate, including zone charges, would thereby exceed the
27 average basic business rate, including zone charges, of the largest

1 telephone utility;

2 2. Its basic residential rate, including zone charges, if the resulting average
3 basic residential rate would thereby exceed the average basic residential
4 rate including zone charges, of the largest telephone utility; or

5 3. If its average basic business rate, including zone charges, its average
6 basic residential rate, including zone charges, or its installation charges
7 for basic business or basic residential services would be increased by
8 more than twenty percent (20%).

9 (b) At least sixty (60) calendar days before the effective date of such an
10 adjustment of its rates or charges, a small telephone utility shall file a copy of
11 its revised rates and tariffs with the commission and shall mail notice of the
12 proposed rate adjustment to each affected subscriber and the commission. The
13 notice shall state:

14 1. The GDP for the preceding two (2) calendar years;
15 2. The amount by which any of the small telephone utility's rates or charges
16 identified in subsection (3)(a) of this section will be adjusted; and
17 3. The right of subscribers to object to the adjustment and request
18 commission review by filing a letter or petition with the commission.

19 (c) If by the forty-fifth calendar day following the date of the notice to subscribers
20 of such a proposed adjustment to its rates or charges, the commission has
21 received letters or petitions requesting commission review of the adjustment
22 signed by at least five hundred (500) subscribers or five percent (5%) of
23 subscribers, whichever is greater, the commission shall immediately notify the
24 small telephone utility of this fact, and the proposed rate adjustment shall not
25 become effective as scheduled. The small telephone utility may withdraw the
26 proposed rate or charge adjustment, or if it decides to proceed, the
27 commission shall review the proposed rate adjustment as though no election

1 had been made pursuant to subsection (7) of this section.

2 (4) Any other provision of this chapter notwithstanding, a small telephone utility which
3 has elected to be regulated pursuant to this section may adjust any of its rates,
4 charges, or tariffs, except for:

- 5 (a) Its basic business rate;
- 6 (b) Its basic residential rate;
- 7 (c) Its zone charges;
- 8 (d) Its installation charges for basic business or basic residential services;
- 9 (e) Its access charges; or
- 10 (f) Its pic charges,

11 without regard to the effect on its revenues, by filing its proposed rates, charges, or
12 tariffs with the commission and by notifying its subscribers, both at least thirty (30)
13 calendar days prior to the effective date of its proposed rates, charges, or tariffs.

14 (5) A small telephone utility which has elected to be regulated pursuant to this section
15 shall not:

- 16 (a) Adjust its intrastate access charges if the adjustment requires the small
17 telephone utility's access charge customers, including interexchange carriers,
18 to pay intrastate access charges at levels exceeding the small telephone
19 utility's interstate access charge levels; or
- 20 (b) Adjust its intrastate pic charges if the adjustment requires the small telephone
21 utility's customers to pay intrastate pic charges at levels exceeding the small
22 telephone utility's interstate pic charge levels.

23 The small telephone utility may decrease its intrastate access charges or intrastate
24 pic charges to any level without restriction. Adjustments to intrastate access charge
25 rates or intrastate pic charges shall be effective thirty (30) calendar days following
26 the filing of access charge tariffs or pic charge tariffs with the commission.

27 (6) The rates, charges, earnings, or revenues of a small telephone utility which has

1 elected to be regulated pursuant to this section and is in compliance with the
2 provisions of this section shall be deemed by the commission to be in compliance
3 with KRS 278.030(1).

4 (7) A small telephone utility may elect, at any time, to be regulated by the provisions, in
5 their entirety only, of this section by filing a verified resolution of the utility's board
6 of directors, or other governing body, so electing with the commission. An election
7 shall be effective immediately upon filing with the commission and shall remain
8 effective until withdrawn by the filing with the commission of a verified resolution
9 of the small telephone utility's board of directors or other governing body; provided,
10 however, that all resolutions of election or withdrawal shall remain in effect for at
11 least one (1) year from the date of their filing with the commission. A resolution
12 electing to be regulated by the provisions of this section shall mean that the small
13 telephone utility so electing shall be regulated by this section and shall not be
14 regulated by KRS 278.020(1) and 278.300. Nothing in this section, however, shall
15 be construed to alter the applicability of KRS 278.020~~(5)~~~~[(4)]~~ or 278.030(2) to
16 small telephone utilities electing to be regulated by the provisions of this section.

17 (8) A small telephone utility which has elected to be regulated pursuant to this section
18 may file an application with the commission pursuant to KRS 278.020(1), and, if a
19 utility does so, that application shall be deemed to have been granted unless within
20 thirty (30) calendar days following the filing of the application, the commission
21 denies the application. If the application is denied or none is filed, the small
22 telephone utility electing to be regulated pursuant to this section may engage in the
23 construction of the plant or facilities, or the purchase of equipment or properties, to
24 provide the services described in KRS 278.010(3)(e). However, if the small
25 telephone utility subsequently files a resolution of withdrawal under subsection (7)
26 of this section, the increased value of property that resulted from any construction
27 project denied approval by the commission or not submitted to the commission for

approval may be excluded from the small utility's rate base for rate making purposes if the cost of construction exceeded one million dollars (\$1,000,000) or five percent (5%) of the value of the small telephone utility's property as reflected in the utility's most recent annual report filed with the commission.

➔Section 4. KRS 65A.050 is amended to read as follows:

(1) (a) As used in this subsection, "entity seeking dissolution" shall mean:

1. The DLG;
2. If the special purpose governmental entity was established by one (1) county, or by one (1) city, the governing body of the county or city that established the special purpose governmental entity;
3. If the special purpose governmental entity was established by multiple counties and cities, the governing bodies of all establishing entities; or
4. If the special purpose governmental entity was established other than by an establishing entity, the governing body or bodies of the county or counties in which the special purpose governmental entity provides or provided services, or operates or operated.

(b) Any special purpose governmental entity that meets at least one (1) of the following criteria may be administratively dissolved:

1. The special purpose governmental entity has taken no action for two (2) or more consecutive years;
2. Following a written inquiry from the entity seeking dissolution, the chair of the special purpose governmental entity either:
 - a. Notifies the entity seeking dissolution in writing that the special purpose governmental entity has not had a governing board, or has not had a sufficient number of governing board members to constitute a quorum for two (2) or more consecutive years; or
 - b. Fails to respond to the inquiry within thirty (30) days;

- 1 3. The special purpose governmental entity fails to register with the DLG
- 2 as required by KRS 65A.090;
- 3 4. The special purpose governmental entity fails to file the information
- 4 required by KRS 65A.020 for two (2) or more consecutive years; or
- 5 5. The governing body of the special purpose governmental entity provides
- 6 documentation to the DLG or the governing body or bodies of the
- 7 establishing entity that it has unanimously adopted a resolution declaring
- 8 the special purpose governmental entity inactive.
- 9 (c) To begin the process of administrative dissolution, the entity seeking
- 10 dissolution shall provide notification of the proposed administrative
- 11 dissolution as provided in this paragraph:
- 12 1. The entity seeking dissolution shall:
- 13 a. Post a notice of proposed administrative dissolution on the registry
- 14 established by KRS 65A.020;
- 15 b. For administrative dissolutions under subparagraphs 3., 4., and 5.
- 16 of paragraph (b) of this subsection, publish, in accordance with the
- 17 provisions of KRS Chapter 424, a notice of proposed
- 18 administrative dissolution, with the cost of the publication billed to
- 19 the special purpose governmental entity for which administrative
- 20 dissolution is sought;
- 21 c. Mail a copy of the notice to the registered contact for the special
- 22 purpose governmental entity, if any; and
- 23 d. Mail a copy of the notice as follows:
- 24 i. If the dissolution is sought by the DLG, to the governing
- 25 body of the establishing entity or county, and to all entities
- 26 at the state level having oversight of or responsibility for the
- 27 special purpose governmental entity; and

1 ii. If the dissolution is sought by an establishing entity or
 2 county, to the DLG and any other establishing entities or
 3 counties, and to all entities at the state level having
 4 oversight of or responsibility for the special purpose
 5 governmental entity; and

6 2. The notice shall include:

7 a. The name of the entity seeking dissolution, and contact
 8 information for the entity;

9 b. The name of the special purpose governmental entity for which
 10 dissolution is sought;

11 c. The statutes under which the special purpose governmental entity
 12 was organized and operating;

13 d. A description of the services provided and the territory of the
 14 special purpose governmental entity;

15 e. If there is a plan of dissolution as required by paragraph (e) of this
 16 subsection, identification of the place where the plan of dissolution
 17 may be reviewed;

18 f. A statement that any objections to the administrative dissolution
 19 shall be filed in writing with the entity seeking to dissolve the
 20 special purpose governmental entity within thirty (30) days after
 21 the publication date, and the address and process for submitting
 22 such objections; and

23 g. A statement that if no written objections are received within thirty
 24 (30) days of publication of the notice, the special purpose
 25 governmental entity shall be administratively dissolved.

26 (d) 1. Any resident living in or owning property in the area served by the
 27 special purpose governmental entity for which dissolution is sought,

1 who is not a member of the governing body of the special purpose
2 governmental entity or an immediate family member of a member of the
3 governing body of the special purpose governmental entity, may file a
4 written objection to the dissolution with the entity seeking dissolution.
5 The written objection shall state the specific reasons why the special
6 purpose governmental entity shall not be dissolved, and shall be filed
7 within thirty (30) days after the posting of the notice on the registry as
8 required by paragraph (c) of this subsection.

9 2. a. Upon the passage of thirty (30) days with no objections filed, and
10 satisfaction of all outstanding obligations of the special purpose
11 governmental entity, the special purpose governmental entity shall
12 be deemed dissolved and, if a dissolution plan was required, the
13 entity seeking dissolution shall proceed to implement the
14 dissolution plan.

15 b. Notification of dissolution shall be provided by the entity seeking
16 dissolution to all other entities listed under paragraph (a) of this
17 subsection. The DLG shall maintain a list of all dissolved special
18 purpose governmental entities and the date of dissolution on the
19 registry established by KRS 65A.020.

20 3. If written objections are received within thirty (30) days of the
21 publication on the registry required by paragraph (c) of this subsection,
22 the dissolution process shall be aborted, and the process established by
23 subsection (2) of this section shall be utilized if it is determined that
24 dissolution should still be sought, notwithstanding any other dissolution
25 process that may exist in the Kentucky Revised Statutes for the type of
26 special purpose governmental entity for which dissolution is sought.

27 (e) If the special purpose governmental entity for which administrative

1 dissolution is sought:

- 2 1. Is providing services;
- 3 2. Has outstanding liabilities; or
- 4 3. Has assets;

5 the entity seeking dissolution shall, as part of the dissolution process, develop
 6 a dissolution plan that includes, as relevant, provisions addressing the
 7 continuation of services, the satisfaction of all liabilities, and the distribution
 8 of assets of the special purpose governmental entity.

9 (2) Any special purpose governmental entity not meeting the requirements for
 10 dissolution under subsection (1) of this section, and for which no specific
 11 dissolution provisions apply in the Kentucky Revised Statutes, may be dissolved as
 12 provided in this subsection:

13 (a) The dissolution of a special purpose governmental entity may be initiated
 14 upon:

- 15 1. The affirmative vote of two-thirds (2/3) of the governing body of the
 16 special purpose governmental entity and the adoption of an ordinance by
 17 the affirmative vote of two-thirds (2/3) of the governing body of each
 18 establishing entity;
- 19 2. The adoption of an ordinance by an affirmative vote of two-thirds (2/3)
 20 of the governing body of each establishing entity; or
- 21 3. If there is no establishing entity, by the adoption of an ordinance by an
 22 affirmative vote of two-thirds (2/3) of the governing body of each
 23 county in which the special purpose governmental entity provides
 24 services or operates;

25 (b) Upon initiation of a dissolution after an affirmative vote as provided in
 26 paragraph (a) of this subsection, the special purpose governmental entity for
 27 which dissolution is sought shall not assume any new obligations or duties,

1 contract for any new debt, or levy any additional fees or taxes unless the new
2 obligations, duties, debt, fees, or taxes are included in the dissolution plan
3 required by paragraph (c) of this subsection. Any contract or agreement or
4 plan for new obligations, duties, debt, fees, or taxes entered into or devised in
5 violation of this paragraph shall be void;

6 (c) After voting to commence dissolution of a special purpose governmental
7 entity, the governing body or bodies initiating the dissolution shall: .

8 1. Develop a dissolution plan which, if adopted by an establishing entity
9 shall be by ordinance, which shall include but not be limited to:

10 a. A description of how the necessary governmental services
11 provided by the special purpose governmental entity will be
12 provided upon dissolution of the entity or a statement that the
13 services are no longer needed;

14 b. A plan for the satisfaction of any outstanding obligations of the
15 special purpose governmental entity, including the continuation of
16 any tax levies or fee payments necessary to meet the outstanding
17 obligations;

18 c. Assurances from any organization or entity that will be assuming
19 responsibility for services provided by the special purpose
20 governmental entity, or that will assume the obligations of the
21 special purpose governmental entity, that the organization or entity
22 will, in fact, provide the services or assume the obligations;

23 d. A plan for the orderly transfer of all assets of the special purpose
24 governmental entity in a manner that will continue to benefit those
25 to whom services were provided by the special purpose
26 governmental entity;

27 e. A date upon which final dissolution of the special purpose

1 governmental entity shall occur; and

2 f. Any other information the governing body wishes to include.

3 The dissolution plan shall be available for public review at least thirty
4 (30) days prior to the public hearing required by subparagraph 2. of this
5 paragraph;

6 2. Hold a public hearing in each county and city that is participating in the
7 dissolution to present the proposed dissolution plan and receive
8 feedback from the public. The time and location of the hearing, as well
9 as the location where a copy of the dissolution plan may be reviewed by
10 the public prior to the hearing, shall be advertised as provided in KRS
11 424.130, and shall be posted on the registry established by KRS
12 65A.020. The hearing shall be held not less than fifteen (15) days, nor
13 more than thirty (30) days, after the publication of the notice in the
14 newspaper;

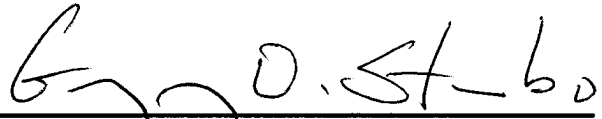
15 3. Send a copy of the notice required by subparagraph 2. of this paragraph
16 to the DLG and to any state entity with oversight authority of the special
17 purpose governmental entity;

18 4. If the dissolution plan is amended after the public hearing, make the
19 amended dissolution plan available for public inspection for at least
20 fifteen (15) days prior to the final vote of the governing body under
21 subparagraph 6. of this paragraph;

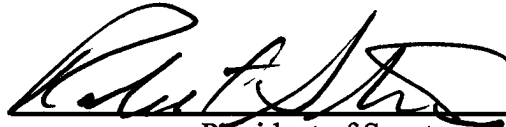
22 5. If the special purpose governmental entity is a utility as defined in KRS
23 278.010(3), obtain approval from the Public Service Commission
24 pursuant to KRS 278.020~~(6)~~~~(5)~~; and

25 6. Within sixty (60) days after the date of the public hearing, finally
26 approve or disapprove the dissolution of the special purpose
27 governmental entity and the dissolution plan. Approval shall require:

- 1 a. If initiated by the governing board of the special purpose
- 2 governmental entity, the affirmative vote of two-thirds (2/3) of the
- 3 members of the governing body of the special purpose
- 4 governmental entity and the adoption of an ordinance by two-
- 5 thirds (2/3) of the members of the governing body of each
- 6 establishing entity;
- 7 b. The adoption of an ordinance by two-thirds (2/3) of the members
- 8 of the governing body of each establishing entity; or
- 9 c. If there is no establishing entity, by the adoption of an ordinance
- 10 by two-thirds (2/3) of the members of the governing body of each
- 11 county in which the special purpose governmental entity provided
- 12 services or operated;
- 13 (d) The governing body or bodies shall notify the DLG of the outcome of the vote
- 14 or votes taken pursuant to subparagraph 6. of paragraph (c) of this subsection;
- 15 and
- 16 (e) Notwithstanding any other provision of this section, the dissolution of a
- 17 special purpose governmental entity shall not be final until all obligations of
- 18 the special purpose governmental entity have been satisfied or have been
- 19 assumed by another entity.
- 20 ➔Section 5. Whereas the abandonment of utility services places an undue
- 21 financial burden and the need to supplant the loss of essential utility services on the
- 22 individual ratepayer, an emergency is declared to exist, and this Act takes effect upon its
- 23 passage and approval by the Governor or upon its otherwise becoming law.

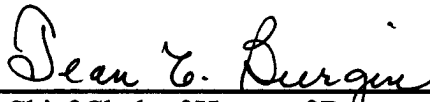


Speaker-House of Representatives



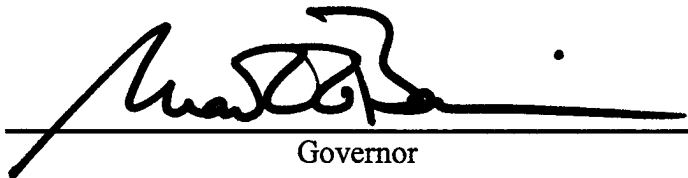
President of Senate

Attest:



Chief Clerk of House of Representatives

Approved



Governor

Date

8 APRIL 2016